

## **CHAPTER 6-09 THE BANK OF NORTH DAKOTA**

### **6-09-01. Purpose and establishment of Bank of North Dakota.**

For the purpose of encouraging and promoting agriculture, commerce, and industry, the state of North Dakota shall engage in the business of banking, and for that purpose shall maintain a system of banking owned, controlled, and operated by it, under the name of the Bank of North Dakota.

### **6-09-02. Industrial commission to operate Bank - Business of Bank.**

The industrial commission shall operate, manage, and control the Bank of North Dakota, locate and maintain its places of business, of which the principal place must be within the state, and make and enforce orders, rules, regulations, and bylaws for the transaction of its business. The business and financial transactions of the Bank, in addition to other matters specified in this chapter, may include anything that any bank or bank holding company lawfully may do, except as it is restricted by the provisions of this chapter. This provision may not be held in any way to limit or qualify either the powers of the industrial commission granted by or the functions of said Bank as defined in this chapter. The powers of the industrial commission and the functions of the Bank must be implemented through actions taken and policies adopted by the industrial commission.

#### **6-09-02.1. Declaration and finding of public purpose - Bank of North Dakota advisory board of directors.**

To enlist the help of private enterprise and to encourage more active use of the purposes for which the Bank of North Dakota was created, the governor shall appoint an advisory board of directors to the Bank of North Dakota consisting of seven persons, at least two of whom must be officers of banks, the majority of the stock of which is owned by North Dakota residents, and at least one of whom must be an officer of a state-chartered or federally chartered financial institution. The governor shall appoint a chairman, vice chairman, and secretary from the advisory board of directors. The term of a director is four years. The industrial commission shall define the duties of the advisory board of directors.

#### **6-09-02.2. Authority of the advisory board of directors to the Bank of North Dakota.**

The advisory board of directors to the Bank of North Dakota shall:

1. Meet regularly with the management of the Bank of North Dakota to review the Bank's operations to determine whether recommendations should be made by the board to the industrial commission relating to improved management performance, better customer service, and overall improvement in internal methods, procedures, and operating policies of the Bank.
2. Make recommendations to the industrial commission relating to the establishment of additional objectives for the operation of the Bank of North Dakota.
3. Make recommendations to the industrial commission concerning the appointment of officers of the Bank of North Dakota.
4. Meet regularly with the industrial commission to present any recommendations concerning the Bank of North Dakota.
5. In addition to the foregoing and pursuant to authorization from the industrial commission, act on behalf of the Bank with respect to the powers and functions of the Bank.

### **6-09-03. Industrial commission may acquire property by purchase or eminent domain - Investment in banking house and furnishings.**

Repealed by S.L. 1989, ch. 110, § 11.

**6-09-04. Commission to employ president and employees - Compensation, operation, and maintenance expenditures limited to appropriations, revenue, or capital.**

The industrial commission shall appoint a president, and may appoint and employ such subordinate officers, employees, and agents as it may judge expedient and in the interests of the state, and shall define the duties, designate the titles, and fix the compensation of all such persons. The commission may designate the president or other officers or employees as its agent in respect to the functions of the Bank, subject to its supervision, limitation, and control. The total compensation of such appointees and employees, together with other expenditures for the operation and maintenance of the Bank, shall remain within the appropriation, revenues, or capital lawfully available for such purposes.

**6-09-05. Removal and discharge of appointees.**

The industrial commission may remove and discharge any and all persons appointed in the exercise of the powers granted by this chapter, whether by the commission or by the president of the Bank. All appointments and removals contemplated by this chapter must be made as the commission deems fit to promote the efficiency of the public service.

**6-09-06. Capital of Bank.**

Repealed by S.L. 1979, ch. 138, § 1.

**6-09-07. State funds must be deposited in Bank of North Dakota - Income of the Bank.**

All state funds and funds of all state penal, educational, and industrial institutions must be deposited in the Bank of North Dakota by the persons having control of such funds or must be deposited in accordance with constitutional and statutory provisions. All income earned by the Bank for its own account on state moneys that are deposited in or invested with the Bank to the credit of the state must be credited to and become a part of the revenues and income of the Bank.

**6-09-08. Nonliability of officers and sureties after deposit.**

Whenever any of the public funds hereinbefore designated are deposited in the Bank of North Dakota, as hereinbefore provided, the official having control thereof and the sureties on the bond of every such official shall be exempt from all liability by reason of loss of any such funds while so deposited.

**6-09-09. Deposits may be received from any source - Deposits to credit in other banks.**

Repealed by S.L. 1989, ch. 110, § 11.

**6-09-10. Guaranty of deposits - Exemption from all taxation.**

All deposits in the Bank of North Dakota are guaranteed by the state. Such deposits are exempt from state, county, and municipal taxes of any and all kinds.

**6-09-11. Bank a clearinghouse.**

For banks that make the Bank of North Dakota a reserve depository, it may perform the functions and render the services of a clearinghouse, including all facilities for providing domestic and foreign exchange, and may rediscount paper, on such terms as the industrial commission shall provide.

**6-09-12. Interest rates fixed by commission - Time deposits - Limitations - Charges for services.**

Repealed by S.L. 1989, ch. 110, § 11.

**6-09-13. Collection items must be paid to Bank of North Dakota at par - Violation a misdemeanor.**

Repealed by S.L. 1975, ch. 106, § 673.

**6-09-14. Bank of North Dakota may deposit in any bank.**

Repealed by S.L. 1989, ch. 110, § 11.

**6-09-15. Powers.**

The Bank of North Dakota may:

1. Make, purchase, guarantee, or hold loans:
  - a. To state-chartered or federally chartered lending agencies or institutions or any other financial institutions.
  - b. To holders of Bank of North Dakota certificates of deposit and savings accounts up to ninety percent of the value of the certificates and savings accounts offered as security.
  - c. To actual farmers who are residents of this state, if the loans are secured by recorded mortgages giving the Bank of North Dakota a first lien on real estate in North Dakota in amounts not to exceed eighty percent of the value of the security.
  - d. That are insured or guaranteed in whole or in part by the United States, its agencies, or instrumentalities.
  - e. That are eligible to be guaranteed under chapter 15-62.1. Loans made pursuant to this subdivision may provide for interest that remains unpaid at the end of any period specified in the loan to be added to the principal amount of the debt and thereafter accumulate interest.
  - f. To individuals or bank holding companies for the purpose of purchasing or refinancing the purchase of bank stock of a bank located in the state.
  - g. To nonprofit organizations that are exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)], the proceeds of the loans to be used for construction, reconstruction, repair, renovation, maintenance, and associated costs on property under the control of the parks and recreation department.
  - h. Under Public Law No. 99-198 [99 Stat. 1534; 7 U.S.C. 1932 et seq.], as amended through December 31, 1996, to nonprofit corporations for the purpose of relending loan funds to rural businesses.
  - i. Under title 7, Code of Federal Regulations, part 1948, subpart C; part 1951, subparts F and R; and part 1955, subparts A, B, and C, as amended through December 31, 1996, to finance businesses and community development projects in rural areas.
  - j. Obtained as security pledged for or originated in the restructuring of any other loan properly originated or participated in by the Bank.
  - k. To instrumentalities of this state.
  - l. As otherwise provided by this chapter or other statutes.
  - m. If the Bank is participating in the loan and the Bank deems it is in the best interests of the Bank to do so, it may purchase the remaining portion of the loan from a participating lender that is closed by regulatory action or from the receiver of the participating lender's assets.
  - n. To an investment company created for completing a trust preferred securities transaction for the benefit of a financial institution located in this state.
2. Make agricultural real estate loans in order to participate in the agricultural mortgage secondary market program established pursuant to the Agricultural Credit Act [Pub. L. 100-233; 101 Stat. 1686; 12 U.S.C. 2279aa-2279aa-14], as amended through December 31, 1996.
3. Purchase participation interests in loans made or held by banks, bank holding companies, state-chartered or federally chartered lending agencies or institutions, any other financial institutions, or any other entity that provides financial services and that meets underwriting standards that are generally accepted by state or federal financial regulatory agencies.
4. Invest its funds:
  - a. In conformity with policies of the industrial commission.

- b. In a public venture capital corporation organized and doing business in this state through the purchase of shares of stock.
  - c. In North Dakota alternative and venture capital investments and early-stage capital funds, including the North Dakota development fund, incorporated, not to exceed fifteen million dollars, for the purpose of providing funds for investment in North Dakota alternative and venture capital investments, early-stage capital funds, and entrepreneurship awards. The Bank may invest a maximum of two hundred thousand dollars per biennium in North Dakota-based venture capital entities that make investments in companies located outside North Dakota. The Bank may allow for third-party management of the funds invested under this subdivision if the management is provided by the North Dakota development fund, incorporated, or a third party that is located in the state and that has demonstrated fund management experience.
5. Buy and sell federal funds.
  6. Lease, assign, sell, exchange, transfer, convey, grant, pledge, or mortgage all real and personal property, title to which has been acquired in any manner.
  7. Acquire real or personal property or property rights by purchase, lease, or, subject to chapter 32-15, the exercise of the right of eminent domain and may construct, remodel, and repair buildings.
  8. Receive deposits from any source and deposit its funds in any bank or other financial institution.
  9. Perform all acts and do all things necessary, convenient, advisable, or desirable to carry out the powers expressly granted or necessarily implied in this chapter through or by means of its president, officers, agents, or employees or by contracts with any person, firm, or corporation.
  10. Purchase mortgage loans on residential real property originated by financial institutions.

**6-09-15.1. Loans to general fund authorized - Continuing appropriation.**

The state treasurer and the director of the office of management and budget may, when the balance in the state general fund is insufficient to meet legislative appropriations, execute and issue on behalf of the state evidences of indebtedness on the state general fund which at no time exceed the total principal amount of ten million dollars with principal maturity of not more than twelve months. As a condition precedent to the issuance and sale of the evidences of indebtedness, the state treasurer must request and obtain a statement from the director of the office of management and budget and state tax commissioner certifying that anticipated general fund revenues for the balance of the fiscal year in which the evidences of indebtedness are to be issued will exceed the principal amount and interest on the evidences of indebtedness to be issued. The state industrial commission may in turn direct the Bank of North Dakota to make loans to the state general fund by the purchase of the evidences of indebtedness at such rates of interest as the industrial commission may prescribe. After evidences of indebtedness have been issued and sold pursuant to this section, the state treasurer shall establish a fund for the repayment of the principal upon maturity and the interest when due. The state treasurer shall place all available general fund revenues into this fund until the fund contains a sufficient balance for the repayment of the principal at maturity and interest when due, which moneys are hereby appropriated for this purpose.

**6-09-15.2. Bank may invest in certain government sponsored stocks - Limit.**

Repealed by S.L. 1989, ch. 110, § 11.

**6-09-15.3. Bank stock loans - Requirements.**

Repealed by S.L. 1989, ch. 110, § 11.

**6-09-15.4. Participations in loans to small business concerns - Direct loans to nonprofit corporations.**

Repealed by S.L. 1999, ch. 82, § 1.

**6-09-15.5. Bank loans to beginning farmers - Revolving loan fund - Requirements.**

1. A revolving loan fund must be maintained in the Bank of North Dakota for the purpose of making or participating in loans to North Dakota beginning farmers for the purchase of agricultural real estate, equipment, and livestock. All moneys transferred into the fund, interest upon moneys in the fund, and payments to the fund of principal and interest on loans made from the fund are appropriated for the purpose of providing loans and to supplement the interest rate on loans to beginning farmers made by the Bank of North Dakota under subdivision c of subsection 1 of section 6-09-15 and in accordance with this section.
2. The revolving loan fund and loans made from the fund must be administered and supervised by the Bank of North Dakota. The Bank may deduct a service fee for administering the fund from interest payments received on loans. An application for a loan from the fund must be made to the Bank and, upon approval, a loan must be made from the fund in accordance with this section.
3. A loan made from the fund may not exceed eighty percent of the appraised value of the agricultural collateral, with the actual percentage to be determined by the Bank. The Bank may do all things and acts and may establish additional terms and conditions necessary to make a loan under this section. A loan made from the fund must have a first security interest.
4. A loan made from the fund must have the interest rate fixed at one percent below the Bank's then current base rate for the first five years with a maximum rate of six percent per year and variable at one percent below the Bank's then current base rate for the second five years. During the second five years, the variable rate must be adjusted annually on the anniversary date. The rate during the remaining term of the loan floats at the Bank's base rate as in effect from time to time.
5. The maximum term of a real estate loan is thirty years. The maximum term of a farm equipment or livestock loan is seven years.
6. The industrial commission shall contract with a certified public accounting firm to audit the fund as necessary. The cost of the audit, and any other actual costs incurred by the Bank on behalf of the fund, must be paid for by the fund.
7. The Bank shall adopt policies to implement this section.
8. Notwithstanding any other provision of law, the Bank may transfer any unobligated funds between funds that have been appropriated by the legislative assembly for interest buydown in the beginning farmers loan fund and the agriculture partnership in assisting community expansion fund.
9. Notwithstanding any other provision of law, the Bank may transfer any unobligated funds to the value-added agriculture equity loan program for the purpose of interest buydown on a loan made for investment in a feedlot or dairy operation. Fund transfers under this subsection may not exceed one million dollars during a biennium.

**6-09-15.6. Bank of North Dakota purchase of export trading company stock - Limitation.**

Repealed by S.L. 1989, ch. 110, § 11.

**6-09-15.7. Bank may invest in a public venture capital corporation.**

Repealed by S.L. 1989, ch. 110, § 11.

**6-09-15.8. Bank of North Dakota may make loans for improvement of facilities under the control of the parks and recreation department.**

Repealed by S.L. 1989, ch. 110, § 11.

**6-09-15.9. Limitations on loans by the Bank of North Dakota - Disclosure of interests in certain loans.**

Notwithstanding any other provision of law, the Bank of North Dakota may not make any loan or otherwise give its credit to a member of the industrial commission during the member's term on the industrial commission. Before taking office, a member of the industrial commission shall file a statement with the Bank of North Dakota indicating any personal interest that that member has in any loan or loan application in existence or pending at any time during the member's term on the industrial commission.

**6-09-16. Funds transferred to state departments - How credited by state treasurer.**

Repealed by S.L. 1979, ch. 142, § 1.

**6-09-17. Office of management and budget to issue warrants against transferred funds.**

Repealed by S.L. 1979, ch. 142, § 1.

**6-09-18. Real estate loans - Application - Appraisal - Action on loans.**

Repealed by S.L. 1967, ch. 91, § 2.

**6-09-19. Conditions of real estate mortgage - Extension of payments.**

Repealed by S.L. 1967, ch. 91, § 2.

**6-09-20. Mortgage and note payable to manager of Bank - Recitals - Recording - Satisfaction and discharge.**

Repealed by S.L. 1967, ch. 91, § 2.

**6-09-21. Sale and assignment of note and mortgage - Extension of payments limited.**

Repealed by S.L. 1967, ch. 91, § 2.

**6-09-22. Assignment of note and mortgage to state treasurer - Payments - Satisfaction.**

Repealed by S.L. 1967, ch. 91, § 2.

**6-09-23. Partial release and satisfaction of mortgages assigned to state treasurer.**

Repealed by S.L. 1967, ch. 91, § 2.

**6-09-24. Partial payments - Sale and assignment of mortgages assigned to state treasurer.**

Repealed by S.L. 1967, ch. 91, § 2.

**6-09-25. State treasurer may lease lands acquired through foreclosure of Bank mortgages - Oil and gas leases.**

Repealed by S.L. 1977, ch. 138, § 12.

**6-09-26. Name in which business conducted and titles taken - Execution of instruments.**

All business of the Bank must be conducted under the name of "The Bank of North Dakota". Title to property pertaining to the operation of the Bank must be obtained and conveyed in the name of "The State of North Dakota, doing business as The Bank of North Dakota". Instruments must be executed in the name of the state of North Dakota. Within the scope of authority granted by the industrial commission, the president may execute instruments on behalf of the Bank, including any instrument granting, conveying, or otherwise affecting any interest in or lien upon real or personal property. Other officers or employees of, and legal counsel to, the Bank may execute instruments on behalf of the Bank when authorized by the industrial commission.

Any instrument executed prior to July 11, 1989, by the president, an attorney for the Bank, or an officer or employee of the Bank, and otherwise proper, is valid and effective.

**6-09-26.1. Execution of instruments.**

Repealed by S.L. 1989, ch. 110, § 11.

**6-09-27. Civil actions on Bank transactions - Name of parties - Service - Venue.**

1. Civil actions may be brought against the state of North Dakota on account of claims for relief claimed to have arisen out of transactions connected with the operation of the Bank of North Dakota upon condition that the provisions of this section are complied with. In such actions, the state must be designated as "The State of North Dakota, doing business as The Bank of North Dakota". The actions may be brought in the same manner and are subject to the same provisions of law as other civil actions. The action must be brought in Burleigh County except as provided in section 28-04-01 or except as provided in subsection 2.
2. If the Bank seeks to participate in a loan that involves multiple banks and if the loan documents require the Bank to agree that civil actions will be commenced in a state outside of North Dakota, the Bank may agree to venue outside of North Dakota if approved by the attorney general.

**6-09-28. Surety on appeal, attachment, claim and delivery, and other cases in which undertaking required, not required of Bank of North Dakota.**

Provisions of law requiring that a surety or sureties be given on undertakings in actions on appeal, attachment, claim and delivery, and other cases in which an undertaking is required, are not applicable to the state of North Dakota, doing business as the Bank of North Dakota, as the party seeking such relief. It is required to give its own undertaking without surety and to reimburse the adverse party when required by law.

**6-09-29. Examinations and audit reports.**

The state auditor shall contract with an independent certified public accounting firm for an annual audit of the Bank of North Dakota in accordance with generally accepted government auditing standards. The state auditor shall audit annually or contract for an annual audit of the separate programs and funds administered by the Bank of North Dakota. On request of the state auditor, the industrial commission shall assist the state auditor in the auditing firm selection process, but the selection of the auditing firm is the state auditor's responsibility. The auditor selected shall prepare an audit report that includes financial statements presented in accordance with the audit and accounting guide for banks and savings institutions issued by the American institute of certified public accountants. The auditor also shall prepare audited financial statements for inclusion in the comprehensive annual financial report for the state. The state auditor may conduct performance audits of the Bank of North Dakota, including the separate programs and funds administered by the Bank. The auditor shall report the results of the audit to the industrial commission and to the legislative assembly. The Bank of North Dakota or its separate programs and funds shall pay the costs of the audit. The department of financial institutions, through the commissioner, shall examine the Bank of North Dakota at least once each twenty-four months and conduct any investigation of the Bank which may be necessary. The commissioner shall report the examination results, and the results of any necessary investigation, to the industrial commission as soon as practicable and to the legislative assembly. The department of financial institutions shall charge a fee for any examination or investigation at an hourly rate to be set by the commissioner, sufficient to cover all reasonable expenses of the department associated with the examinations and investigations provided for by this section.

**6-09-30. Repayment of moneys appropriated for Bank to state.**

Repealed by S.L. 1967, ch. 91, § 2.

**6-09-31. Sale of land held by state treasurer as trustee for state.**

Repealed by S.L. 1967, ch. 91, § 2.

**6-09-32. Bank may adopt rules governing sales.**

Repealed by S.L. 1967, ch. 91, § 2.

**6-09-33. Bank of North Dakota to administer assets of rural rehabilitation corporation.**

Repealed by S.L. 1989, ch. 110, § 11.

**6-09-34. Electronic fund transfer systems.**

The Bank of North Dakota may establish, under such rules and regulations as adopted by the industrial commission, a system to provide fund transfer services to its customers and to the customers of state-chartered and federally chartered banks located within the state of North Dakota, and to other financial institutions otherwise authorized to utilize the services of electronic fund transfer systems, to acquire such equipment as is necessary to establish electronic fund transfer systems, and to make such reasonable charges for services rendered to other banks hereunder as may be established by the industrial commission.

**6-09-35. Confidentiality of Bank records.**

The following records of the Bank of North Dakota are confidential:

1. Commercial or financial information of a customer, whether obtained directly or indirectly, except for routine credit inquiries or unless required by due legal process. As used in this subsection, "customer" means any person who has transacted or is transacting business with, or has used or is using the services of, the Bank of North Dakota, or for whom the Bank of North Dakota has acted as a fiduciary with respect to trust property.
2. Internal or interagency memorandums or letters which would not be available by law to a party other than in litigation with the Bank.
3. Information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of a state or federal agency responsible for the regulation or supervision of any Bank activity.
4. Information obtained from the state department of financial institutions which would not be available from that agency under section 6-01-07.1.
5. The report by a Bank officer or member of the Bank's advisory board of directors concerning personal financial statements.

**6-09-36. Bank of North Dakota - Custodian of securities.**

Notwithstanding any other provision of law to the contrary, the Bank of North Dakota shall replace the state treasurer as the custodian of all securities that are required to be deposited with the state except that the state treasurer is the custodian of all securities resulting from the investment of funds by the state treasurer, or except as otherwise required by this section and sections 6-05-04, 6-05-05, 6-05-27, 39-16-10, and 39-16.1-15, subsection 1 of section 39-16.1-17, and subsection 1 of section 39-16.1-19.

**6-09-37. Sale and leasing of acquired agricultural real estate.**

The sale and leasing of agricultural real estate with an appraised value of ten thousand dollars or more acquired by the Bank of North Dakota through foreclosure or deed in lieu of foreclosure must be done in accordance with chapter 15-07 or 15-09 and policies adopted by the industrial commission. The sale and leasing of agricultural real estate with an appraised value of less than ten thousand dollars, acquired by the Bank of North Dakota through foreclosure or deed in lieu of foreclosure, may be done in a manner as the Bank determines is appropriate given the circumstances. In the case of a lease by the party holding the right of redemption, that party has the right to purchase at any time.



**6-09-38. North Dakota higher education savings plan - Administration - Rules - Continuing appropriation.**

The Bank of North Dakota shall adopt rules to administer, manage, promote, and market a North Dakota higher education savings plan. The Bank shall ensure that the North Dakota higher education savings plan is maintained in compliance with internal revenue service standards for qualified state tuition programs. The Bank, as trustee of the North Dakota higher education savings plan, may impose an annual administrative fee to recover expenses incurred in connection with operation of the plan or for other programs deemed to promote attendance at an institution of higher education. Administrative fees received by the Bank are appropriated on a continuing basis to be used as provided in this section. Contributions made during the taxable year to a higher education savings plan administered by the Bank, pursuant to the provisions of the plan, are eligible for an income tax deduction as provided in chapter 57-38. Information related to contributions is confidential except as is needed by the tax commissioner for determining compliance with the income tax deduction provided in chapter 57-38.

**6-09-39. Truckdriver training programs - Loans to students.**

Expired under S.L. 2007, ch. 79, § 2.

**6-09-40. Reimbursement of Bank losses.**

Repealed by S.L. 2007, ch. 87, § 2.

**6-09-41. Livestock loan guarantee program - Establishment - Rules.**

Expired under S.L. 2005, ch. 57, § 5.

**6-09-42. Health information technology loan fund - Appropriation.**

1. The health information technology loan fund is established in the Bank for the purpose of providing loans to health care providers to purchase and upgrade electronic health record technology, train personnel in its use, improve security of information exchange, and for other purposes as established by the health information technology office, in collaboration with the health information technology advisory committee. This fund is a revolving loan fund. All moneys transferred into the fund, interest upon moneys in the fund, and collections of interest and principal on loans made from the fund are appropriated for disbursement according to this section.
2. The Bank shall make loans from this fund to health care providers as approved by the health information technology office director, in collaboration with the health information technology advisory committee, in accordance with the criteria established by the health information technology office director under section 54-59-26. A loan made under this fund must be repayable over a period that may not exceed ten years.
3. The Bank shall administer the health information technology loan fund. Funds in the loan fund may be used for loans as provided under this section and the costs of administration of the fund. Annually, the Bank may deduct a service fee for administering the revolving loan fund maintained under this section.
4. An application for a loan under this section must be made to the health information technology office. The health information technology office director, in collaboration with the health information technology advisory committee, may approve the application of a qualified applicant that meets the criteria established by the health information technology office director. The health information technology office shall forward approved applications to the Bank. Upon approval of the application by the Bank, the Bank shall make the loan from the revolving loan fund as provided under this section.
5. The Bank may do all acts necessary to negotiate loans and preserve security as deemed necessary, to exercise any right of redemption, and to bring suit in order to collect interest and principal due the revolving loan fund under mortgages, contracts, and notes executed to obtain loans under this section. If the applicant's plan for financing provides for a loan of funds from sources other than the state of North

Dakota, the Bank may take a subordinate security interest. The Bank may recover from the revolving loan fund amounts actually expended by the Bank for legal fees and to effect a redemption.

**6-09-43. Health information technology planning loan fund - Appropriation.**

1. The health information technology planning loan fund is established in the Bank for the purpose of providing low-interest loans to health care entities to assist those entities in improving health information technology infrastructure. This fund is a revolving loan fund. All moneys transferred into the fund, interest upon moneys in the fund, and collections of interest and principal on loans made from the fund are appropriated for disbursement according to this section.
2. The Bank shall make loans from this fund to health care entities as approved by the health information technology office director, in collaboration with the health information technology advisory committee, in accordance with the criteria established by the health information technology director under section 54-59-26.
3. The Bank shall administer the health information technology planning loan fund. Funds in the loan fund may be used for loans as provided under this section and the costs of administration of the fund. Annually, the Bank may deduct a service fee for administering the revolving loan fund maintained under this section.
4. An application for a loan under this section must be made to the health information technology office. The health information technology office director, in collaboration with the health information technology advisory committee, may approve the application of a qualified applicant that meets the criteria established by the health information technology office director. The health information technology office shall forward approved applications to the Bank. Upon approval of the application by the Bank, the Bank shall make the loan from the revolving loan fund as provided under this section.
5. The Bank may do all acts necessary to negotiate loans and preserve security as deemed necessary, to exercise any right of redemption, and to bring suit in order to collect interest and principal due the revolving loan fund under mortgages, contracts, and notes executed to obtain loans under this section. If the applicant's plan for financing provides for a loan of funds from sources other than the state of North Dakota, the Bank may make a loan subordinate security interest. The Bank may recover from the revolving loan fund amounts actually expended by the Bank for legal fees and to effect a redemption.

**6-09-44. Residential mortgages.**

1. The Bank may establish a residential mortgage loan program under which the Bank may originate residential mortgages if private sector mortgage loan services are not reasonably available. Under this program a local financial institution or credit union may assist the Bank in taking a loan application, gathering required documents, ordering required legal documents, and maintaining contact with the borrower.
2. If the Bank establishes a program under this section, at a minimum the program must provide:
  - a. An applicant must be referred to the Bank by a local financial institution or credit union;
  - b. The loan application must be for an owner-occupied primary residence;
  - c. The Bank provide all regulatory disclosures, process and underwrite the loan, prepare closing documents, and disburse the loan; and
  - d. The terms of the loan originated by the Bank must provide:
    - (1) The amount of the loan may not exceed an amount to be established by Bank policy;
    - (2) The term of the loan may not exceed thirty years;
    - (3) The rate of the loan must be equal to the Bank's market rate;
    - (4) The maximum loan to value may not exceed eighty percent of appraised value; however, a local financial institution or credit union may take a

second mortgage that does not exceed a combined loan to value of ninety-five percent; and

(5) Standard credit underwriting and documentation applies.

3. The Bank may sell eligible first-time home buyer loans to the North Dakota housing finance agency.

**6-09-45. Required transfer - Special education contract costs.**

If the industrial commission is notified by the superintendent of public instruction that, using all available sources, there are insufficient moneys with which to fully reimburse school districts for the excess costs of serving the one percent of special education students statewide who require the greatest school district expenditures in order to be provided with special education and related services, the industrial commission shall transfer from the earnings and accumulated and undivided profits of the Bank of North Dakota the amount that the superintendent of public instruction certifies is necessary to provide the statutorily required level of reimbursement. The superintendent of public instruction shall file for introduction legislation requesting that the ensuing legislative assembly return any amount transferred under this section to the Bank of North Dakota.

**6-09-46. Rebuilders loan program - Loan fund - Continuing appropriation - Requirements.**

1. The Bank of North Dakota shall maintain a loan fund to make or participate in loans to North Dakota residents affected by a presidentially declared disaster in the state for the purpose of the resident rebuilding the resident's flood-damaged home, rebuilding nonowner-occupied property, or purchasing a new home or federal emergency management agency temporary housing unit located in a community-approved group housing site in the disaster-impacted community. For a resident rebuilding the resident's flood-damaged home or purchasing a new home, up to twenty percent of the loan proceeds disbursed under this program may be used for debt service, debt retirement, or other credit obligations. All moneys transferred into the fund, interest upon moneys in the fund, and payments to the fund of principal and interest on loans made from the fund are appropriated for the purpose of providing loans in accordance with this section.
2. The Bank shall administer and supervise the loan fund and loans made from the fund. The Bank may deduct, from interest payments received on loans, a service fee for administering the fund for the Bank and originating financial institutions. An application for a loan from the fund must be made to the Bank or originating financial institution and, upon approval, a loan must be made from the fund in accordance with this section.
3. A loan may be made from the fund only to a resident of a federal emergency management agency temporary housing unit located in a community-approved group housing site, a homeowner residing, or owner of nonowner-occupied property in an area in this state in which federal emergency management agency individual assistance was available to homeowners after a presidentially declared disaster in the state as a result of a flood event occurring during 2011. A loan may be made from the fund only to a resident of a federal emergency management agency temporary housing unit located in a community-approved group housing site or a homeowner residing in this state whose home, or owner of nonowner-occupied property whose property, was granted a reduction in 2011 in true and full valuation from the individual's property's preflood value by an assessment reduction pursuant to the governor's executive order 2011-22 or by an abatement for flood-damaged property granted by the board of county commissioners. In order for an owner of nonowner-occupied property to qualify for a loan under this section, the owner of the property must have been the owner at the time of the presidentially declared disaster and the number of households in the property rebuilt under this section must remain the same as before the presidentially declared disaster. The owner of nonowner-occupied property is eligible for only one loan for nonowner-occupied property under this section and that loan must be secured by the property for which the loan is made. An initial loan made

to a homeowner or owner of nonowner-occupied property under this section from state funds may not exceed thirty thousand dollars or the actual amount of documented damage not paid by flood insurance, whichever is less. A supplemental loan of up to twenty thousand dollars may be made to a homeowner who has received an initial loan under this section if the full amount of the initial loan and supplemental loan is secured by the property and does not exceed the actual amount of documented damage not paid by flood insurance. A loan made to a resident of a federal emergency management agency temporary housing unit located in a community-approved group housing site may not exceed thirty thousand dollars or the purchase price as established by the federal emergency management agency, whichever is less. For purposes of this section, "nonowner-occupied property" means property consisting of one or more rental dwelling units, none of which is occupied by the owner, and does not include hotel or motel accommodations or any other commercial property.

4. A loan from the fund must have the interest rate fixed at one percent per year for no more than twenty years.
5. For every loan made from the fund to a homeowner to rebuild or replace that individual's flood-damaged home, principal and interest payments must be deferred for the first twenty-four months of the loan. There is no deferral of principal and interest payments for a loan for nonowner-occupied property.
6. A loan application for an initial loan to a homeowner or for a federal emergency management agency temporary housing unit or for a loan for nonowner-occupied property under this section may not be accepted after September 30, 2013. A loan application for a supplemental loan to a homeowner may not be accepted before October 1, 2013, nor after December 31, 2013.
7. If, subsequent to receiving a loan from the fund, the property for which the loan was made is purchased for flood mitigation purposes or otherwise sold, the balance of the loan and any interest accrued on the loan must be repaid to the fund upon the closing of the sale. If the rebuilders loan borrower provides financial evidence satisfactory to the Bank of North Dakota to show that the borrower does not have the financial ability to repay the rebuilders loan in full upon sale of the property, after the sale of the property the Bank of North Dakota may allow the borrower to continue to make payments based on the loan terms.
8. The industrial commission shall contract with a certified public accounting firm to audit the fund as necessary. The cost of the audit, and any other actual costs incurred by the Bank on behalf of the fund, must be paid by the fund.
9. The Bank shall adopt policies to implement this section.

**6-09-47. (Effective through July 31, 2017) Medical facility infrastructure loan program - Continuing appropriation - Audit and costs of administration.**

1. The Bank of North Dakota shall administer a loan program to provide loans to medical facilities to conduct construction that improves the health care infrastructure in the state or improves access to existing nonprofit health care providers in the state. The construction project may include land purchases and may include purchase, lease, erection, or improvement of any structure or facility to the extent the governing board of the health care facility has the authority to authorize such activity.
2. In order to be eligible under this loan program, the applicant must be the governing board of the health care facility which shall submit an application to the Bank. The application must:
  - a. Detail the proposed construction project, which must be a project of at least one million dollars and which is expected to be utilized for at least thirty years;
  - b. Demonstrate the need and long-term viability of the construction project; and
  - c. Include financial information as the Bank may determine appropriate to determine eligibility, such as whether there are alternative financing methods.
3. The governor shall establish a task force to review loan applications under this section and to make recommendations to the Bank on the loan applications. The task force must include representation of medical providers and medical facilities from the

oil-producing counties in the state. The task force shall work with the Bank to establish criteria for eligibility for a loan under the program. The criteria established by the task force and the Bank must give priority to applicants that are located in oil-producing counties.

4. A loan provided under this section:
  - a. May not exceed the lesser of fifteen million dollars or seventy-five percent of the actual cost of the project;
  - b. Must have an interest rate equal to one percent; and
  - c. Must provide a repayment schedule of no longer than twenty-five years.
5. A recipient of a loan under this section shall complete the financed construction project within twenty-four months of approval of the loan. Failure to comply with this subsection may result in forfeiture of the entire loan received under this section.
6. The medical facility infrastructure fund is a special fund in the state treasury. All moneys in the medical facility infrastructure fund are appropriated to the Bank on a continuing basis for the purpose of providing loans under this section.
7. Funds in the medical facility infrastructure fund may be used for loans as provided under this section and to pay the costs of administration of the fund. Annually, the Bank may deduct a service fee for administering the medical facility infrastructure fund maintained under this section.
8. The medical facility infrastructure fund must be audited in accordance with section 6-09-29. The cost of the audit and any other actual costs incurred by the Bank on behalf of the fund must be paid from the fund.
9. The Bank shall deposit loan repayment funds in the medical facility infrastructure fund. After deduction of fees and costs as provided in this section, the Bank shall make an annual transfer of repayment funds deposited in the medical facility infrastructure fund to the state treasurer for deposit in the strategic investment and improvements fund.

**(Effective August 1, 2017, through July 31, 2043) Medical facility infrastructure loan program - Continuing appropriation - Audit and costs of administration.**

1. The Bank of North Dakota shall service loans made under the medical facility infrastructure loan program. The repayment schedule of these loans may not exceed twenty-five years.
2. Funds in the medical facility infrastructure fund may be used for loans as provided under this section and to pay the costs of administration of the fund. Annually, the Bank may deduct a service fee for administering the medical facility infrastructure fund maintained under this section.
3. The medical facility infrastructure fund must be audited in accordance with section 6-09-29. The cost of the audit and any other actual costs incurred by the Bank on behalf of the fund must be paid from the fund.
4. The Bank shall deposit loan repayment funds in the medical facility infrastructure fund. After deduction of fees and costs as provided in this section, the Bank shall make an annual transfer of repayment funds deposited in the medical facility infrastructure fund to the state treasurer for deposit in the strategic investment and improvements fund.

**6-09-48. Funds received in relation to federal student loan program - Administration - Continuing appropriation.**

1. The Bank of North Dakota shall administer and manage the funds received in relation to the federal student loan program under section 2212 of the Health Care and Education Reconciliation Act of 2010 [Pub. L. 111-152].
2. The funds shall be used to support the functions of the Bank related to higher education.
3. The funds received by the Bank under subsection 1 are appropriated on a continuing basis to be used as provided in this section.
4. These funds are not subject to section 54-44.1-11.